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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Lifespaces, Inc.		
Entity	Corporation	Citizenship	South Carolina
Address	1799 Meeting Street Charleston, SC 29405 UNITED STATES		
Attorney information	John Harleston The Harleston Law Firm, LLC 909 Tall Pine Road Mt. Pleasant, SC 29464-2909 UNITED STATES john@harlestonlawfirm.com Phone:843-971-9453`		

Registration Subject to Cancellation

Registration No	2978722	Registration date	07/26/2005
Registrant	HX Lifespace Incorporated 575 Burbank Street, Units F and G Broomfield, CO 80020 UNITED STATES		
Goods/Services Subject to Cancellation	Class 009. First Use: 2003/09/09 , First Use In Commerce: 2005/03/03 Goods/Services: Electronic and wireless electrical control systems for residential or commercial controlling of security systems, audio systems, heating systems, air conditioning systems, garage doors, doorbells, windows and window coverings, aquariums, terrariums, pools, spas, water features, sprinklers, fireplaces, intercoms, and thermostats		

Attachments	petition to cancel.PDF (4 pages)(11912 bytes)
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Signature	/John Harleston/
Name	John Harleston
Date	01/29/2007

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRIAL AND APPEAL BOARD**

In the Matter of: Registration No. 2,978,722

For the mark: *LIFESPACE*

Date registered: July 26, 2005

LIFESPACES, INC.,)
)
Petitioner,)
)
v.)
)
HX LIFESPACE INCORPORATED,)
)
Registrant.)
_____)

**PETITION TO CANCEL
REGISTRATION NO. 2,978,722**

Petitioner, Lifespaces, Inc., is a South Carolina corporation with offices at 1799 Meeting Street, Charleston, SC 29405-9344, mailing address PO Box 21750, Charleston, SC 29413-1750. To the best of Petitioner's knowledge, the name and address of the current owner of Registration No. 2,978,722 are HX Lifespace Incorporated DBA Lifespace Incorporated (referred to below as "HX"), 575 Burbank Street, Units F and G, Broomfield, Colorado 80020. Petitioner believes that it will be damaged by the above-identified registration and petitions to cancel the same. Grounds for cancellation are as follows:

1. Petitioner sells, installs, calibrates, and repairs electronic devices and equipment, electronic integrated control systems, and remote controls, relating to audio and video entertainment, high definition televisions and displays, home theater systems, fire, safety, access and security monitoring, computer networking, data, telephony, communications, lighting,

motorization, HVAC, climate control, acoustical treatment, and sound isolation. Petitioner also sells furniture that houses electronic equipment, and provides consulting, design, layout and schematics preparation, project management, and programming services concerning the same electronic devices and equipment, integrated control systems, and remote controls. Petitioner has used and uses the marks *Lifespaces* and *eLifespaces* (collectively referred to as the "Marks") in interstate commerce in connection with the sale of its goods and services.

2. Petitioner registered its mark *Lifespaces* on December 10, 2002, Registration No. 2,660,529 and *eLifespaces* on December 17, 2002, Registration No. 2,664,322, as to certain of its goods and services listed in the registrations as: "furniture that houses electronic equipment" in Class 20; "retail store services featuring electronic equipment, furniture that houses electronic equipment, home theater systems, control lighting systems, and electronic integrated control systems for all of the above" in Class 35; "installation and repair of electronic equipment, furniture that houses electronic equipment, home theater systems, control lighting systems, and electronic integrated control systems for all of the above" in Class 37; and programming insertable electronic circuit boards for use in home theater systems, control lighting systems, and electronic integrated control systems" in Class 42.

3. Petitioner has used the Marks in interstate commerce in connection with the goods and services listed in Registration Numbers 2,660,529 and 2,664,322 and in connection with other goods and services at least since August 1, 2001. Petitioner has continually and gradually expanded its goods and services to include others not specifically listed in those registrations and has used the Marks in connection with those additional goods and services.

4. Petitioner's registrations are prima facie evidence of its right to use its Marks and to exclude others from use or registration of marks that are likely to cause confusion or to cause mistake or to deceive because of their resemblance to Petitioner's Marks.
5. Petitioner has acquired statutory and common law rights in its Marks under the Trademark Act, 15 U.S.C. §1051, et seq., as amended, and under various state laws in addition to the rights acquired from its federal registrations as to its goods and services, including those not specifically listed in its registrations.
6. HX registered the mark *Lifespace*, Registration No. 2,978,722, on July 26, 2005 (the "HX Mark"), for goods listed as: "Electronic and wireless electrical control systems for residential or commercial controlling of security systems, audio systems, heating systems, air conditioning systems, garage doors, doorbells, windows and window coverings, aquariums, terrariums, pools, spas, water features, sprinklers, fireplaces, intercoms, and thermostats."
7. The HX mark is almost identical to Petitioner's marks *Lifespaces* and *eLifespaces* in appearance, sound, and commercial impression. The goods listed in Registration No. 2,978,722 are substantially similar to and closely related to the goods and services listed in Petitioner's registrations, to other goods and services in connection with which Petitioner uses its Marks, and to related goods and services within Petitioner's normal and logical field of expansion of trade.
8. The HX mark so resembles Petitioner's Marks that its use is likely to cause confusion, or to cause mistake, or to deceive.
9. Petitioner's rights in its Marks are superior to those of HX by virtue of prior use and registrations.

10. Registration of the HX mark damages Petitioner by causing confusion, mistake, or deception, by creating a conflict among registrations, by diluting the strength of Petitioner's Marks, and by adversely affecting Petitioner's ability to protect its Marks through subsequent registrations of its Marks for related goods and services, and to extend the use and registration of its Marks to related goods and services in areas of normal and logical expansion.

WHEREFORE, Petitioner asks that Registration No. 2,978,722 be cancelled.

/John Harleston/
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